

ESTTA Tracking number: **ESTTA151487**Filing date: **07/17/2007**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Paul Stuart, Inc.		
Entity	Corporation	Citizenship	New York
Address	18 East 45th Street New York, NY 10017 UNITED STATES		

Attorney information	Laura J. Winston Darby & Darby P.C. P.O. Box 770, Church Street Station New York, NY 10008-0770 UNITED STATES tmdocket@darbylaw.com, lwinston@darbylaw.com, emarmo@darbylaw.com Phone:212-527-7700
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Registration Subject to Cancellation

Registration No	2843001	Registration date	05/18/2004
Registrant	Powder 500 West Madison Street Suite 2910 Chicago, IL 60661 UNITED STATES		
Goods/Services Subject to Cancellation	Class 025. First Use: 1999/07/01 , First Use In Commerce: 1999/08/01 Goods/Services: clothing, namely, underwear, undergarments, undershirts, underpants, thongs, t-shirts, pajamas, sleepwear, sleep shirts, socks, blouses, dresses, panties, pants, skirts, jackets, jeans, swimwear, sweatshirts and hats		

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Signature	/laura j. winston/
Name	Laura J. Winston
Date	07/17/2007

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

PAUL STUART, INC.

Petitioner,

v.

POWDER,

Registrant.

Cancellation No. _____

(Reg. No. 2,843,001)

PETITION FOR CANCELLATION

Paul Stuart, Inc. ("Petitioner"), a corporation located and doing business at 18 East 45th Street, New York, New York 10017, believes it is damaged by the registration of POWDER & Design as shown in Registration No. 2,843,001 (the "Registration"), for "clothing, namely, underwear, undergarments, undershirts, underpants, thongs, t-shirts, pajamas, sleepwear, sleep shirts, socks, blouses, dresses, panties, pants, skirts, jackets, jeans, swimwear, sweatshirts and hats" in the name of Powder ("Registrant"), a limited liability joint stock company with an address of 500 West Madison Street, Suite 2910, Chicago, Illinois 60661, and hereby petitions to cancel the same.

The grounds for cancellation are as follows:

1. Petitioner filed an intent-to-use application, under Serial No. 78/246,819, seeking registration with the U.S. Patent and Trademark Office ("PTO") of the mark SILKY POWDER for "clothing, namely, suits, pants, skirts, and jackets" in International Class 25.

2. The PTO refused registration to Petitioner's application Serial No. 78/246,819 based
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on alleged confusing similarity with Registrant's POWDER & Design mark covered by the Registration.

3. Petitioner filed an appeal of the PTO's refusal of registration, which appeal was denied on July 5, 2007.

4. Petitioner filed a new intent-to-use application, under Serial No. 77/229,044, seeking registration with the U.S. Patent and Trademark Office ("PTO") of the mark SILKY POWDER for "clothing, namely, suits, pants, skirts, and jackets" in International Class 25, on July 13, 2007.

5. The PTO may refuse registration to Petitioner's application Serial No. 77/229,044 based on alleged confusing similarity with Registrant's POWDER & Design mark covered by the Registration.

6. Upon information and belief, Registrant is not currently using the mark covered by the Registration and has not used the mark for at least three consecutive years.

7. Upon information and belief, Registrant has not assigned the mark covered by the Registration.

8. Upon information and belief, the mark covered by the Registration has been abandoned because its use has been discontinued with intent not to resume such use. Accordingly, the Registration is subject to cancellation on the ground of abandonment pursuant to Section 14(3) of the Lanham Act, 15 U.S.C. § 1064(3).

9. Petitioner will suffer damage if it is unable to obtain a registration for the mark covered by its Serial No. 77/229,044.

WHEREFORE, Petitioner prays that the Registration be cancelled.

The required fee of \$300 is enclosed. Please charge any additional costs to our

Deposit Account No. 04-0100.

Respectfully submitted,

DARBY & DARBY P.C.

Dated: New York, New York
July 17, 2007

P.O. Box 770
Church Street Station
New York, New York 10008-0770
(212) 527-7700

By: /s/ Laura J. Winston

Paul Fields
Laura J. Winston
Attorneys for Petitioner